

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND ENTERED
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JOHN W. RENNIE, et al. : NOV 15 1999
: AT BALTIMORE
v. : Civil Action No. CIVIL-CASE 450
: DISTRICT OF MARYLAND DEPUTY
SCHWEIZER AIRCRAFT CORPORATION : BY
et al. :

MEMORANDUM AND ORDER

Before the Court is Defendant Schweizer's motion for leave to file an amended answer to include a cross-claim against recently dismissed Defendant Lycoming (Paper No. 53). Plaintiffs have opposed the motion (Paper No. 58). Upon review of the motion and applicable law, this Court determines that Defendant's motion will be denied.

Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend "shall be freely given when justice so requires." Leave to amend should not be granted, however, if there is undue delay, bad faith, or dilatory motive on the part of the movant or if undue prejudice will result if leave is granted. See Foman v. Davis, 371 U.S. 178, 182 (1962). This Court chooses not to exercise its discretion and accordingly denies Defendant Schweizer's motion to amend its answer to include a cross-claim against Lycoming.

The helicopter crash underlying this action occurred on October 18, 1992. The subsequent suit has been pending for over



three years. Pursuant to the Court's scheduling order, the deadline for amendment of pleadings was on January 25, 1999. Defendant Schweizer did not assert at any time prior to its present motion that Lycoming was at fault. It was only after Plaintiffs and Lycoming recently settled, thereby dismissing Lycoming from the case, that Defendant Schweizer sought leave to amend its answer to include cross-claims for contribution and indemnification against Lycoming. The settlement did not identify Lycoming as a joint tortfeasor in the action. Schweizer admits that it seeks to add a cross-claim at this time in order to establish that Lycoming is a joint tortfeasor. Schweizer's motion to amend, based on its wish to be relieved of sole liability should Plaintiff's claim be successful, constitutes undue delay. The Court agrees with Plaintiffs that Schweizer cannot now move to amend its answer in order to be protected from the implications of its litigation strategy. In addition, the Court is persuaded that prejudice to Plaintiffs would result if Schweizer's motion is granted; e.g., increasing costs and delaying the case.

Accordingly, IT IS this 15th day of November, 1999, by the United States District Court for the District of Maryland,

ORDERED:

1. That Defendant Schweizer's motion to file an amended answer (Paper No. 53) is hereby DENIED; and

2. That the Clerk of the Court shall mail or transmit copies of this Order to all counsel of record.


William M. Nickerson
United States District Judge